



Office of Governmental Affairs

P.O. Box 942720

Sacramento, CA 94229-2720

Telecommunications Device for the Deaf - (916) 795-3240

(916) 795-3689, FAX (916) 795-3270

April 18, 2006

AGENDA ITEM 8

TO: MEMBERS OF THE HEALTH BENEFITS COMMITTEE

- I. **SUBJECT:** Legislative Proposal—Medicare Part D
- II. **PROGRAM:** Legislation
- III. **RECOMMENDATION:** Staff recommends that the Committee accept and recommend to the Board of Administration to **sponsor** legislation to allow the CalPERS Board greater flexibility in its implementation of Medicare Part D.

IV. ANALYSIS:

This proposal would amend the Public Employees' Medical and Hospital Care Act (PEMHCA) to provide the CalPERS Board of Administration maximum flexibility for the implementation of Medicare Part D.

Background

CalPERS provides a variety of health plans covering 1.2 million lives with participation from over 1,100 participating public employers. Plans offered include Health Maintenance Organizations (HMOs), Preferred Provider Organizations (PPOs), and Association Health Plans. Members can choose from three HMOs including Blue Shield of California, Kaiser Permanente, and Western Health Advantage. The two current self-funded PPOs are known as PERSCare and PERS Choice. These plans offer a PPO network through Blue Cross of California with nationwide affiliations as well as out-of-area and worldwide coverage.

Certain associations also offer insurance coverage purchased through trusts as nonprofit entities established to provide health insurance to their membership through CalPERS. These associations control their health plan benefit design. These plans are only available to dues paying members of those organizations and their families. The associations with plans include:

- The Peace Officers Research Association of California (PORAC)
- The California Association of Highway Patrolmen (CAHP), and
- The California Correctional Peace Officers Association (CCPOA)

Worldwide coverage is available for members of these organizations. While PORAC and CAHP currently offer PPO coverage through a third party administrator (Blue Cross), CCPOA offers HMO coverage through Blue Shield.

Medicare Prescription Drug Benefit – Implementation Options

The Medicare Prescription Drug, Improvement, and Modernization Act (MMA) signed into law on December 8, 2003, established Medicare Part D effective January 1, 2006. Under Medicare Part D, Medicare beneficiaries are eligible for prescription drug coverage, and federal funding is available to encourage employers to continue providing high quality prescription drug coverage. The options available to employers and plan sponsors to implement Part D include applying for the employer subsidy (referred to as the Retiree Drug Subsidy), offering or becoming a Prescription Drug Plan (PDP), and offering a Medicare Advantage Prescription Drug (MA-PD) plan. Employers and plan sponsors can only claim the Retiree Drug Subsidy (RDS) for each retiree and Medicare-eligible dependent who is not enrolled in a PDP or MA-PD plan.

To implement Part D, the Board opted for 2006 to apply for the RDS for Medicare-eligible members not enrolled in the Kaiser Senior Advantage plan offered by CalPERS; and Kaiser would automatically enroll all CalPERS Kaiser Senior Advantage members in the Kaiser MA-PD plan. In addition, the Board sponsored legislation (AB 587) to restrict enrollment in the CalPERS Health Benefits Program to Medicare-eligible members who do not enroll in an individual PDP. Members who inadvertently sign up for Part D will have an opportunity to disenroll from Part D without losing CalPERS health benefits. (Though CalPERS cannot prohibit members from applying for Part D, existing CalPERS drug coverage is as good as or better than that provided under Part D). AB 587 was signed by the Governor on October 5, 2005 (Stats. 2005, Ch 527, §1).

At the Board's direction, staff is re-evaluating Medicare Part D and will be making recommendations to the Health Benefits Committee on options to pursue in 2007. Staff has provided the Health Benefits Committee with information on the following three options:

1. The first of these options is to continue with the RDS and Kaiser MA-PD option the Board chose in 2006. This allows CalPERS members to retain their existing prescription drug coverage and continue to receive their prescription drugs through their health plan without disruption.
2. The second option is to offer a health plan based PDP. CalPERS would contract with Blue Shield, Western Health Advantage, and Medco (for PERSCare and PERSChoice) to offer health plan based Prescription Drug Plans (PDPs)¹. Under this option, members enroll in their health plan's PDP,

¹ No matter which option is pursued by the Board, Kaiser would continue its MA-PD plan for CalPERS Senior Advantage members.

retain their existing prescription drug coverage, and continue to receive their prescription drugs through their health plan without disruption.

3. A third option is for CalPERS to apply to and directly contract with CMS to become a PDP. A third party administrator (TPA) administers the PDP and CalPERS carves out prescription drug benefits from its Medicare-Supplement health plans. CalPERS is then the responsible intermediary between CMS and the TPA, and the TPA and the health plans. CalPERS is also responsible for ensuring that the PDP is compliant with all CMS regulations. Under this option, members retain their existing prescription drug coverage but receive their prescription drugs through the TPA administering the CalPERS PDP. The federal funding formula for the health plan based PDP also applies here. CalPERS staff is not pursuing this option for 2007 for various reasons outlined in a Health Benefits Committee agenda item in March 2006.

Discussion

Current law does not provide the Board the flexibility to implement any Part D option other than the RDS. Also, the Board's annual health plan approval process does not coordinate with the legislative cycle. Legislation enacted last year specifically addressed the subsidy option the Board pursued for 2006. This poses the risk that implementation of any option other than the RDS could be delayed due to inflexibility in the legislative calendar.

Last year's Medicare Part D legislation, AB 587, resulted in an unintended consequence for the association plans. AB 587 prevented members from enrolling in a Board-approved health benefit plan if they enrolled in Medicare Part D. This effectively prohibited association plans from choosing the PDP option because, under current law, members who enroll in a PDP lose CalPERS health care benefits.

The legislation proposed will provide maximum flexibility for the Board to determine how best to implement Part D in the future. This legislation is needed to allow the Board to implement the Part D option that will be the best balanced choice considering impacts on all the stakeholders.

Legislative History

2005 Chapter 527 (AB 587, Negrete McCleod)—Prohibited employees, annuitants, and family members enrolled in a prescription drug plan under Part D of Medicare from enrolling in a board approved health benefit plan, unless enrolled in an approved Medicare Advantage plan. *CalPERS position: Sponsor*

Proposed Changes

This proposal would provide the Board with the maximum flexibility to implement any Medicare Part D option. This proposal also allows association plans to implement a Board-approved PDP for their members.

V. STRATEGIC PLAN:

This item is not a specific product of the Annual or Strategic Plans, but is part of the regular and ongoing workload of the Office of Governmental Affairs.

VI. RESULTS/COSTS:

Program Costs

There will be no additional program costs as a result of this proposal.

Administrative Costs

There will be no additional administrative costs as a result of this proposal.

Lisa Marie Hammond, Chief
Office of Governmental Affairs

Jarvio Grevious
Deputy Executive Officer
Benefits Administration

Terri Westbrook
Assistant Executive Officer
Health Benefits Branch